

SENATE BILL 228

J1, L1, M4

1lr0797

By: **Senators Glassman, Astle, Garagiola, Jennings, Kelley, Klausmeier, Middleton, Montgomery, Pipkin, Pugh, Shank, and Simonaire**

Introduced and read first time: January 27, 2011

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: February 22, 2011

CHAPTER _____

1 AN ACT concerning

2 **Agricultural Product Sales – Producer Mobile Farmer’s Market License –**
3 **Public Festival and Event Authorization**

4 FOR the purpose of altering a certain definition to exclude the sale of certain raw
5 agricultural products at a public festival or event from regulation as a food
6 service facility; prohibiting a local jurisdiction from requiring a license for the
7 sale of raw agricultural products at a public festival or event; authorizing a
8 producer mobile farmer’s market licensee to sell certain products at a public
9 festival or event; authorizing a seasonal farmer’s market producer sampling
10 licensee to prepare and offer samples of a farm product at a public festival or
11 event; requiring a seasonal farmer’s market producer sampling license to be
12 valid at any public festival or event in the county issuing the license; defining a
13 certain term; and generally relating to the sale of agricultural products by
14 farmers.

15 BY repealing and reenacting, without amendments,
16 Article – Health – General
17 Section 21–301(a), 21–304(a)(1), 21–305(c), and 21–308(a) and (c)
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2010 Supplement)

20 BY adding to
21 Article – Health – General
22 Section 21–301(i–1)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2010 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Health – General
5 Section 21–301(h), 21–304(d), 21–309.1, and 21–309.2
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2010 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article – Health – General**

11 21–301.

12 (a) In this subtitle the following words have the meanings indicated.

13 (h) (1) “Food service facility” means:

14 (i) A place where food or drink is prepared for sale or service on
15 the premises or elsewhere; or

16 (ii) Any operation where food is served to or provided for the
17 public, with or without charge.

18 (2) “Food service facility” does not include:

19 (i) A kitchen in a private home where food is prepared at no
20 charge for guests in the home, for guests at a social gathering, or for service to
21 unemployed, homeless, or other disadvantaged populations;

22 (ii) A food preparation or serving area where only
23 nonpotentially hazardous food, as defined by the United States Food and Drug
24 Administration, is prepared or served only by an excluded organization; or

25 (iii) A location in a farmer’s market **OR AT A PUBLIC FESTIVAL**
26 **OR EVENT** where raw agricultural products, as defined in § 21–304(d)(1)(iii) of this
27 subtitle, are sold.

28 **(I–1) “PUBLIC FESTIVAL OR EVENT” MEANS A PLANNED GATHERING**
29 **THAT IS OPEN TO THE PUBLIC AND IS REGULATED BY THE STATE OR LOCAL**
30 **JURISDICTION IN WHICH IT TAKES PLACE.**

31 21–304.

1 (a) (1) The Department shall adopt rules and regulations necessary to
2 carry out the provisions of this subtitle.

3 (d) (1) (i) In this subsection the following words have the meanings
4 indicated.

5 (ii) "Farmer's market" means a public market in the State
6 where producers of raw agricultural products sell the products directly to the public.

7 (iii) "Raw agricultural product" includes:

8 1. Whole, unprocessed grains, flowers, herbs, nuts,
9 fruits, and vegetables supplied directly from the farm on which they were produced;
10 and

11 2. Any agricultural products the Department identifies
12 in regulation.

13 (2) A local jurisdiction may not require a license for the sale of raw
14 agricultural products at a farmer's market **OR AT A PUBLIC FESTIVAL OR EVENT.**

15 21-305.

16 (c) A license is not transferable:

17 (1) Except as provided by regulation for transfer of the license on the
18 death of the licensee from person to person; or

19 (2) From location to location, except for a producer mobile farmer's
20 market license under § 21-309.1 of this subtitle.

21 21-308.

22 (a) In this section, "on-farm home processing facility" means a home or
23 domestic kitchen located on an individual's farm that manufactures and processes
24 foods for commercial sale.

25 (c) (1) An on-farm home processing facility may obtain an on-farm home
26 processing plant license for a fee established in regulations.

27 (2) An on-farm home processing facility that obtains an on-farm home
28 processing plant license may manufacture or process only foods provided for in
29 regulations of the Department.

30 (3) A license or permit is not required to deliver prepackaged foods to
31 fill an order of a customer.

1 21-309.1.

2 (a) (1) The Department shall establish a producer mobile farmer's market
3 license.

4 (2) The fee for a producer mobile farmer's market license:

5 (i) Shall be based on the anticipated cost of licensing,
6 inspecting, and regulating licensees; and

7 (ii) May not exceed \$100.

8 (3) A producer mobile farmer's market license shall be valid for a
9 period of 1 year.

10 (b) A producer mobile farmer's market licensee may transport to and sell at a
11 farmer's market **OR AT A PUBLIC FESTIVAL OR EVENT:**

12 (1) Products that were produced by the licensee under an on-farm
13 home processing plant license;

14 (2) Products produced by the licensee, as authorized by the
15 Department in regulation; or

16 (3) Farm products that have been inspected, licensed, or certified for
17 food safety by the Maryland Department of Agriculture.

18 (c) (1) A producer mobile farmer's market license is valid in all
19 jurisdictions in the State.

20 (2) A county or municipality may not require a producer mobile
21 farmer's market licensee to obtain a separate permit or license to sell products
22 authorized for sale under the producer mobile farmer's market license.

23 (d) The Department shall:

24 (1) Issue producer mobile farmer's market licenses;

25 (2) At least once a year, inspect each mobile unit that operates under a
26 producer mobile farmer's market license; and

27 (3) Adopt regulations to implement this section.

28 (e) A producer mobile farmer's market license shall be displayed on any
29 mobile unit operating under the license.

1 (f) (1) A person in violation of this section or a regulation adopted under
2 this section is subject to a fine not to exceed \$1,000.

3 (2) A county health department shall enforce and levy fines for a
4 violation of this section or any regulations adopted under this section.

5 (3) Fines assessed by a county health department shall be paid to the
6 county in which the violation occurred.

7 (4) A county health department shall notify the Department of any
8 violations occurring in the county.

9 21-309.2.

10 (a) A county may establish a seasonal farmer's market producer sampling
11 license to be required for a producer of a farm product to prepare and offer samples of
12 the farm product for human consumption at a farmer's market **OR AT A PUBLIC**
13 **FESTIVAL OR EVENT.**

14 (b) A county seasonal farmer's market producer sampling license established
15 under this section shall:

16 (1) Be valid at all farmer's markets in the county;

17 (2) **BE VALID AT ANY PUBLIC FESTIVAL OR EVENT IN THE**
18 **COUNTY;**

19 (3) Be valid for the entire season for which it is issued; and

20 ~~[(3)]~~ (4) Have a single fee as set by the county.

21 (c) A seasonal farmer's market producer sampling licensee shall use the
22 license only to offer samples of a farm product that has been produced by the licensee.

23 (d) The Department shall adopt regulations that:

24 (1) Establish eligibility for the license;

25 (2) Provide for the authorized uses of the license;

26 (3) Establish standards and approved methods under which sampling
27 shall be conducted;

28 (4) Specify the duration of the season during which the license is valid;
29 and

1 (5) Include other provisions that are necessary to protect public health
2 and control foodborne illnesses.

3 (e) A county issuing a SEASONAL farmer’s market producer sampling
4 license shall adopt an ordinance that:

5 (1) Sets the fee for the license;

6 (2) Provides for the enforcement of provisions of law under which the
7 license is issued; and

8 (3) Provides penalties for violations of provisions of law under which
9 the license is issued.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.